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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,842	02/16/2001	Calvin Joseph Stowe II	154-23110-US	3585

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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 01/31/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

785842

Applicant(s)

STOWE

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/19/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 - 12, 14 - 31, 32 - 40 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 19 - 31, 32 - 40 is/are allowed.
- ☒ Claim(s) 1 - 5, 7 - 9, 11, 12, 16, 18 is/are rejected.
- ☒ Claim(s) 6, 10, 14, 15, 17 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9, 11, 12, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ricci et al. (5164433).

Ricci teaches a thickener composition which may be used in drilling fluids, which comprises a latex, a surfactant, aluminum silicate and salts, such as calcium carbonate (see Table 1 and column 5, lines 56-59).

3. Claims 1-5, 7-9, 11, 12, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Onan et al. (5346011).

Onan teaches a wellbore fluid which comprises a latex, aluminum silicate, a sodium alkyl sulfate surfactant, and a salt such as zinc oxide (see for example column 8, lines 37-61).

Applicants intended use as a drilling fluid does not distinguish (In re Pearson 181 USPQ 641).

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4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Endres (2809179).

Endres teaches a composition which comprises latex, barium sulphate and a precipitating agent, such as aluminum sulfate (see examples). The barium sulfate contains silicate therein (column 5, lines 11-15). Applicants intended use as a drilling fluid does not distinguish (In re Pearson 181 USPQ 641).

5. Claims 6, 10, 14, 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 19-31 and 32-40 are allowable over the art of record.

7. Applicants arguments have been considered and are deemed persuasive, in that although the clays are alumino-silicate complexes, there is no indication that such would act as a precipitating agent. New rejection are presented in which specific precipitating agents such as aluminum sulfate or aluminum silicate are disclosed in the references.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2723

January 27, 2003

Philip C. Tucker
PHILIP C. TUCKER
ART UNIT 1712